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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,615	02/16/2005	Jean I. Montagu	13165-005US1	1555
26161	7590	10/15/2008	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022		TURK, NEIL N		
		ART UNIT		PAPER NUMBER
			1797	
			NOTIFICATION DATE	
			10/15/2008	
			DELIVERY MODE	
			ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10524615	2/16/2005	MONTAGU ET AL.	13165-005US1

EXAMINER

NEIL TURK

ART UNIT

PAPER

1797

20080930

DATE MAILED:

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Commissioner for Patents

Applicant's response filed on September 2nd, 2008, is non-responsive to the Non-Final Action sent out on March 31st, 2008. Applicant's response includes an election of a different invention from that previously elected in the telephone call made to Applicant's representative on February 25th, 2008.

The general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter. Note that the applicant cannot, as a matter of right, file a request for continued examination (RCE) to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined (i.e., applicant cannot switch inventions by way of an RCE as a matter of right). When claims are presented which the examiner holds are drawn to an invention other than the one elected, he or she should treat the claims as outlined in MPEP § 821.03.

The reply filed on Sept. 2nd, 2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the reply does not address the claim rejections presented in the Non-Final Action mailed March 31st, 2008. See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797